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Message Text

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51
ACTION EB-07

INFO OCT-01 EUR-12 IO-10 ISO-00 FEA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

STR-04 TAR-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01

AF-06 ARA-06 EA-06 NEA-10 OIC-02 SAM-01 SIL-01 /135 W
---------- 128217
R 211135Z JUN 75
FM USDEL MTN GENEVA
TO SECSTATE WASHDC 188
INFO USMISSION EC BRUSSELS

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PASS STR

E.O. 11652: N/A
TAGS: ETRD GATT
SUBJECT: MTN: EC POSITION ON DRAFT STANDARDS CODE

REF: MTN GENEVA 4627

1. SUMMARY. MTN DEL RECOMMENDS EARLY COMPLETION OF DETAILED FACTUAL AND LEGAL ANALYSIS OF IMPLICATIONS OF PROPOSED STANDARDS CODE FOR U.S. AND EC STANDARDS-MAKING SYSTEMS, AS BASIS FOR REFUTING EC ARGUMENT THAT CODE WOULD NOT BE SELF-BALANCING AND THUS NOT BE APPROPRIATE AS "EARLY HARVEST" ITEM. COMPLETION OF SUCH ANALYSIS PRIOR TO JULY TNC WOULD BE MOST USEFUL DEADLINE. END SUMMARY.

2. AT MAY 5-16 NTM MEETING ON STANDARDS EC EMPHASIZED LONG-STANDING POSITION THAT DRAFT STANDARDS CODE NOT SELF-BALANCING IN TERMS OF RIGHTS AND OBLIGATIONS.
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RECENTLY, EC COMMISSION HAS EXPANDED ON THIS ARGUMENT

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WITH MEMBER STATES, AS REPORTED IN EUROPEAN PUBLICATION
(SEE EUROPEAN REPORT #231, DATED MARCH 17, 1975), AND
IN DISCUSSIONS WITH U.S. DEL (REF A).

3. COMMISSION MANTAINS EC WOULD ASSUME GREATER RESPON-
SIBILITIES THAN U.S. BECAUSE IT WOULD BE RESPONSIBLE
FOR ACTIVITIES OF INDIVIDUAL MEMBER STATES -- WHO WOULD
ALSO BE BOUND BY CODE. EC AS WHOLE WOULD THEREFORE BE
LIABLE FOR RETALIATION WHEN COMMISSION COULD NOT CONTROL
MEMBER STATE STANDARDS MAKING ACTIVITIES. IN CONTRAST,
U.S. WOULD ONLY ASSUME "BEST EFFORTS" OBLIGATIONS AND
THEREFORE AVOID PROSPECTS FOR RETALIATION RESULTING
FROM STANDARDS WRITING ACTIVITIES IN U.S. PRIVATE ORGANI-
ZATIONS AND IN STATES.

4. MTN DEL BELIEVES THIS IS FALLACIOUS ARGUMENT OFFERED
ONLY TO DIVERT ATTENTION FROM MAKING PROGRESS ON CODE
AND TO INCREASE APPARENT EC NEGOTIATING LEVERAGE AGAINST
THE U.S. WE BELIEVE THIS ARGUMENT SHOULD BE FORCEFULLY
COUNTERED SOON WITH A CAREFULLY PREPARED FACTUAL AND
LEGAL BRIEF AND A COMPARATIVE ANALYSIS OF THE U.S.-EC STANDARDS
MAKING SYSTEMS. ADDITIONALLY, A GENERAL OUTLINE OF POS-
SIBLE IMPLEMENTING LEGISLATION FOR A STANDARDS CODE AND
THE EFFECT THAT SUCH LEGISLATION MIGHT HAVE ON FEDERAL
GOVERNMENT LEGAL PREROGATIVES VIS-A-VIS U.S. STANDARDS
WRITING ACTIVITIES WOULD BE APPROPRIATE.

5. FOLLOWING POINTS MIGHT BE CONSIDERED IN SUCH A
STUDY:

(A) CURRENT U.S. STANDARDS ACTIVITIES AT FEDERAL,
STATE AND LOCAL LEVELS AND RELATIONSHIP WITH PRIVATE
STANDARDS ORGANIZATIONS (E.G. ANSI);

(B) EXTENT OF FEDERAL GOVERNMENT POWERS UNDER CON-
STITUTION OVER STATE, LOCAL AND PRIVATE STANDARDS THAT
INTERFERE WITH INTERSTATE/INTERNATIONAL TRADE;

(C) POSSIBLE MODIFICATION TO THESE RELATIONSHIPS
AND LEGAL AUTHORITIES AS A RESULT OF IMPLEMENTING LEGIS-
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LATION NECESSARY FOR U.S. TO FULLY ADHERE AND REALIZE
BENEFITS FROM STANDARDS CODE. THIS MIGHT INCLUDE CREATION
OF NATIONAL STANDARDS BODY AND POSSIBLE PROVISIONS TO
CREATE LEGAL RELATIONSHIP BETWEEN EXECUTIVE BRANCH AND
STATE, LOCAL AND PRIVATE STANDARDS WRITING ORGANIZATIONS.

6. ON THE OTHER SIDE OF THIS ARGUMENT, STUDY SHOULD ALSO
INCLUDE DETAILED OPINION ON EC OBLIGATIONS, I.E. WHAT

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OBLIGATIONS WOULD THE COMMISSION REALLY ASSUME. FOLLOW-
ING POINTS MIGHT BE APPROPRIATE:

(A) STATUS OF EC STANDARDS WRITING SYSTEM. JUNE 14
EUROPEAN REPORT FEATURE ARTICLE ANALYZES CURRENT STATUS
INCLUDING FACT THAT ONLY ONE REPEAT ONE STANDARD HAS
BEEN IMPLEMENTED BY ALL MEMBER STATES.

(B) MEMBER STATE STANDARDS WRITING PROCEDURES AND
ORGANIZATIONS AND RELATIONSHIP WITH NATIONAL AUTHORITIES.

(C) RELATIONSHIP OF POSSIBLE STANDARDS CODE TO
ROME TREATY AND EFFECT ON EC COMMISSION RELATIONSHIP WITH
MEMBER STATES AND THEIR STANDARDS WRITING ACTIVITIES.

(D) ASSUMING THAT MEMBER STATES, AS WELL AS COM-
MISSION, SIGN CODE, WE SHOULD EXPLORE STANDARDS WRIT-
ING PROCEDURES IN MEMBER STATES AND EFFECT THAT ADHERENCE
AS DIRECT SIGNATORIES TO CODE WOULD HAVE ON THEIR NATIONAL
PRACTICES.

7. U.S. DEL BELIEVES THIS CRUCIAL WORK MUST BE DONE
IF WE ARE TO HAVE EARLY PROGRESS ON STANDARDS CODE. THE
MORE THE EC REITERATES UNCHALLENGED THE ABOVE ARGUMENT
THAT CODE WOULD NOT BE SLEF-BALANCING, THE MORE PLAUSIBLE
IT SEEMS TO OTHERS. CAREFULLY DOCUMENTED COUNTERARGUMENT
BASED ON FACTS LIKELY TO BE ONLY WAY TO REFUTE EC
POSITION PERSUASIVELY AND ESTABLISH CREDIBILITY OF
EARLY IMPLEMENTATION OF AGREED STANDARDS CODE.

8. GUNDELACH LIKELY TO RAISE THIS ISSUE IN WASHINGTON
DURING VISIT WEEK OF JUNE 23. MTN DEL RECOMMENDS THAT
EFFORT BE MADE TO CONVERT LEGAL BRIEF REQUESTED PARA 4
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OF REFTEL INTO TENTATIVE COUNTERARGUMENTS BY THAT TIME,
WITH INDICATION OF PRELIMINARY U.S. VIEWS ON ISSUES
RAISED ABOVE, IN ORDER TO BEGIN PROCESS OF BEATING BACK
EC EFFORT TO DELAY AGREEMENT ON CODE. FULL STUDY
RECOMMENDED ABOVE, IF CONCLUDED ON PRIORITY BASIS, WOULD
BE EXTREMELY USEFUL TO MTN DEL IN PERIOD IMMEDIATELY PRE-
CEDING JULY TNC TO LAY GROUNDWORK FOR EMPHASIS ON RAPID
COMPLETION OF AGREED CODE. WE WOULD INVITE COMMENTS ON PROPOSED
STUDY FROM US MISSION EC BRUSSELS. HARTZELL

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NNN

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Draft Date: 21 JUN 1975
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Decaption Note:
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Disposition Case Number: n/a
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Disposition Date: 28 MAY 2004
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To: STATE
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